

1 **UNITED STATES DISTRICT COURT**

2 **DISTRICT OF NEVADA**

3 CHRISTOPHER MORALES-REID,

Case No.: 2:23-cv-00665-APG-DJA

4 Plaintiff

Order

5 v.

6 WARDEN NAGERA, et al.,

7 Defendants

8

9 Plaintiff Christopher Morales-Reid brings this civil-rights action under 42 U.S.C. § 1983

10 to redress constitutional violations that he claims he suffered while incarcerated at Southern

11 Desert Correctional Center. ECF No. 1-1. On August 25, 2023, I ordered Morales-Reid to file an

12 amended complaint by September 29, 2023. ECF No. 5. I warned Morales-Reid that the action

13 could be dismissed if he failed to file an amended complaint by that deadline. *Id.* at 8.

14 The screening order came back as undeliverable to the address that Morales-Reid

15 provided. ECF No. 7. According to NDOC records, Morales-Reid is on parole. Morales-Reid has

16 not filed an updated address with the Court since being paroled.

17 **I. Discussion**

18 District courts have the inherent power to control their dockets and “[i]n the exercise of

19 that power, they may impose sanctions including, where appropriate . . . dismissal” of a case.

20 *Thompson v. Hous. Auth. of City of Los Angeles*, 782 F.2d 829, 831 (9th Cir. 1986). A court may

21 dismiss an action based on a party’s failure to obey a court order or comply with local rules. *See*

22 *Carey v. King*, 856 F.2d 1439, 1440-41 (9th Cir. 1988) (affirming dismissal for failure to comply

23 with local rule requiring *pro se* plaintiffs to keep court apprised of address); *Malone v. U.S.*

1 *Postal Service*, 833 F.2d 128, 130 (9th Cir. 1987) (dismissal for failure to comply with court
2 order). In determining whether to dismiss an action on one of these grounds, I must consider: (1)
3 the public’s interest in expeditious resolution of litigation; (2) the court’s need to manage its
4 docket; (3) the risk of prejudice to the defendants; (4) the public policy favoring disposition of
5 cases on their merits; and (5) the availability of less drastic alternatives. *See In re*
6 *Phenylpropanolamine Prod. Liab. Litig.*, 460 F.3d 1217, 1226 (9th Cir. 2006) (quoting *Malone*
7 *v. U.S. Postal Serv.*, 833 F.2d 128, 130 (9th Cir. 1987)).

8 The first two factors, the public’s interest in expeditiously resolving this litigation and the
9 court’s interest in managing its docket, weigh in favor of dismissal of Morales-Reid’s claims.
10 The third factor, risk of prejudice to defendants, also weighs in favor of dismissal because a
11 presumption of injury arises from the occurrence of unreasonable delay in filing a pleading
12 ordered by the court or prosecuting an action. *See Anderson v. Air West*, 542 F.2d 522, 524 (9th
13 Cir. 1976). The fourth factor—the public policy favoring disposition of cases on their merits—is
14 greatly outweighed by the factors favoring dismissal.

15 The fifth factor requires me to consider whether less drastic alternatives can be used to
16 correct the party’s failure that brought about the court’s need to consider dismissal. *See Yourish*
17 *v. Cal. Amplifier*, 191 F.3d 983, 992 (9th Cir. 1999) (explaining that considering less drastic
18 alternatives *before* the party has disobeyed a court order does not satisfy this factor); *accord*
19 *Pagtalunan v. Galaza*, 291 F.3d 639, 643 & n.4 (9th Cir. 2002) (explaining that “the persuasive
20 force of” earlier Ninth Circuit cases that “implicitly accepted pursuit of less drastic alternatives
21 prior to disobedience of the court’s order as satisfying this element[,]” *i.e.*, like the “initial
22 granting of leave to amend coupled with the warning of dismissal for failure to comply[,]” have
23 been “eroded” by *Yourish*). Courts “need not exhaust every sanction short of dismissal before

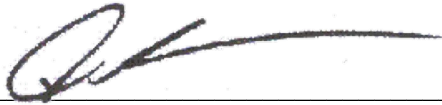
1 finally dismissing a case, but must explore possible and meaningful alternatives.” *Henderson v.*
2 *Duncan*, 779 F.2d 1421, 1424 (9th Cir. 1986). Because this action cannot realistically proceed
3 until and unless Morales-Reid files an amended complaint, the only alternative is to enter a
4 second order setting another deadline. But the reality of repeating an order is that it often only
5 delays the inevitable and squanders the court’s finite resources. The circumstances here do not
6 indicate that this case will be an exception: Morales-Reid has failed to file an updated address
7 with the Court, and it seems unlikely that a second order would even reach him. Setting another
8 deadline is not a meaningful alternative given these circumstances. So the fifth factor favors
9 dismissal.

10 **II. Conclusion**

11 Having thoroughly considered these dismissal factors, I find that they weigh in favor of
12 dismissal. It is therefore ordered that this action is dismissed without prejudice based on
13 Morales-Reid’s failure to file an amended complaint in compliance with my August 25, 2023,
14 order. The Clerk of Court is directed to enter judgment accordingly and close this case. No other
15 documents may be filed in this now-closed case. If Morales-Reid wishes to pursue his claims, he
16 must file a complaint in a new case.

17 It is further ordered that Morales-Reid’s application to proceed *in forma pauperis* (ECF
18 No. 4) is denied as moot.

19
20 Dated: October 23, 2023

21 
22 U.S. District Judge
23